

# 100

## BLACK MEN OF AMERICA, INC.®

What They See Is What They'll Be®

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September 1, 2020

Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: In the Matter of Docket RM-11862

Dear Mr. Pai:

100 Black Men of America, Inc. submits this statement to the FCC in response to our concern that Section 230 of the Telecommunications Act of 1996, while well-intentioned, is being misused in unsafe ways that may undercut the public welfare. 100 Black Men of America, Inc. is an organization that is committed to improving the quality of life within our communities and enhancing educational and economic opportunities for all African Americans.

With bipartisan support, Congress included the Section 230 provision in the landmark 1996 Telecommunications Act as part of its reform of our nation's communications laws. The architects of Section 230 included Republican and Democratic lawmakers who drafted this provision in response to conflicting court decisions over Internet platforms' liability for content its users had posted. Their goal was to simultaneously shield the nascent industry of Internet service platforms while encouraging them to moderate user-posted content in a responsible way.

As U.S. Senator Ron Wyden, one of Section 230's authors and at the time a U.S. Representative, said on the Senate floor in 2018, "I wanted new small businesses to start out focusing on hiring engineers, developers, and designers rather than worrying about needing a team of lawyers. Second, I wanted to make sure that internet companies could moderate their websites without getting clobbered by lawsuits [which is] a better scenario than... websites hiding their heads in the sand out of fear of being weighed down with liability."<sup>1</sup>

100 Black Men of America, Inc agrees that the Section 230 safe harbor has contributed significantly to the Internet's growth. But the internet today is almost unrecognizable from what it was in the mid-1990s when home broadband was non-existent and consumers used phone lines and dial-up service to access text-heavy, generally static websites. The purpose of spurring user-generating communication is still critically important. But as Senator Wyden, again one of Section 230's Congressional authors and a longtime defender, correctly stated in that 2018 speech, the liability protections in Section 230 have evolved into a legal foundation that helps large companies earn profits through reprehensible content:

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There have been far too many alarming examples of algorithms driving vile, hateful, or conspiratorial content to the top of the sites millions of people click onto every day — companies seeming to aid in the spread of this content as a direct function of their business models.<sup>2</sup>  
(emphasis added)

Given the increasing amounts of hateful, false and/or violent content, possibly abetted by foreign sources as a means of influencing U.S. public opinion and/or government policy, that is permeating millions of Americans' online experience, it is important for the FCC and Congress to review whether Section 230 should be updated to better reflect the realities today's internet. This issue is particularly important given the inevitable emergence of malicious "deep fake" photo and video postings, possibly financed or abetted by hostile foreign sources.

100 Black Men of America, Inc. believes that the laudable goal of protecting vigorous dialogue is not inconsistent with the goal of reducing false or malicious statements, as well as the online sale of unsafe, unapproved or recalled products that are legally prohibited from being sold in "brick and mortar" stores. It is regrettable but not surprising that companies such as Amazon are using Section 230 as a legal shield to avoid liability even as they earn substantial profits through online sales of unsafe or unapproved products on their websites. For them, Section 230 has become a massive loophole to earn profits from sales to unsuspecting consumers of products that could not be legally sold in a physical store.

In conclusion, 100 Black Men of America, Inc. urges the Commission and Congress to review whether Section 230 is fulfilling the lofty goals Congress intended back in 1996. If, as seems evident, Section 230 is not working as intended, we urge officials to take steps to rectify this problem.

Sincerely,



Thomas W. Dortch, Jr.  
Chairman of the Board  
100 Black Men of America, Inc.

<sup>1</sup> Remarks by U.S. Senator Ron Wyden, "CDA 230 and SESTA," at <https://medium.com/@RonWyden/floor-remarks-cda-230-and-sesta-32355d669a6e>, March 21, 2018.